# **OPERATING PROCEDURES**

## **OF**

# THE DEVELOPMENT STANDARDS COMMITTEE

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# OPERATING PROCEDURES OF THE DEVELOPMENT STANDARDS COMMITTEE

#### PREAMBLE:

This document establishes the operating procedures ("Operating Procedures") of the Development Standards Committee ("DSC"), an entity established by The Covenants, Easements Restrictions, Charges and Liens of the Woodlands ("The Woodlands Covenants"), and comprised of a group of seven (7) appointed individuals responsible for its governance. While these Operating Procedures are adopted primarily for the benefit of the members of the DSC, they may also be useful to any party interested in how the DSC conducts business, to those subject to the jurisdiction of the DSC, and to residents of The Woodlands considering applying for a position on the DSC. In the event of a conflict between these Operating Procedures and The Woodlands Covenants, The Woodlands Covenants shall control.

The Development Standards Committee recognizes that it is primarily an architectural design and review entity that considers and acts upon requests for variances to The Woodlands Covenants and The Residential Development Standards ("Standards") as received from property owners and residents of The Woodlands as well as considers appeals of the decisions made by a Residential Design Review Committee ("RDRC"). To this end, at least five (5) of the individuals appointed to the DSC will be required to have experience in architecture, engineering, contracting, building code enforcement or a related field. Additionally, the DSC recognizes that is responsible for adopting rules and regulations regarding the administration, interpretation and enforcement of The Woodlands Covenants and Standards.

## PURPOSE

The purpose of the DSC is to protect the character and integrity of The Woodlands through the enforcement of The Woodlands Covenants and the establishment and enforcement of rules and regulations in conformity with the same, including the Standards. To this end, among other things, the DSC recognizes the following responsibilities:

- (i) Deliberate and act upon variance requests to The Woodlands Covenants and Standards based on evidence, impact and judgment while maintaining the essence of the look and feel of The Woodlands;
- (ii) Deliberate and act upon commercial and residential applications and those related to "Land Use";
- (iii) Develop and otherwise revise, modify and amend The Residential Development Standards and The Commercial Planning and Design Standards; and
- (iv) Enforce The Woodlands Covenants and Standards, including taking necessary action to extinguish violations of the same and approving the pursuit of legal action where necessary.

## THE COMMITTEE

The DSC shall consist of seven (7) members appointed by the Board of Directors of The Woodlands Township. At least five (5) of the seven (7) members shall have experience in architecture, engineering, contracting, building code enforcement, or a related field ("Professional Credentials"). In accordance with The Woodlands Covenants, The Woodlands Township shall appoint four (4) members to the DSC intended to provide focus on residential items and impact (the "Township Appointees"), and The Woodlands Land Development Company (TWLDC) shall designate the additional three (3) members for appointment by The Woodlands Township intended to provide focus on some of the commercial items (the "Developer Recommended Appointees"). The DSC shall elect a Chairperson and a Vice-Chairperson by majority vote at the next regular meeting following the appointment of new members to the DSC.

## **MEETINGS**

#### SECTION 3.01 REGULAR MEETINGS

The DSC will hold regular meetings at least once per month, said meetings normally lasting between three (3) to six (6) hours. The act of a majority of the DSC members present at any meeting shall be required for action of the DSC on any matter before it.

The DSC will also meet with the Residential Design Review Committees the Development Review Committee ("DRC") and Commercial Standards Committee ("CSC") on an as needed basis.

#### SECTION 3.02 SPECIAL MEETINGS

The Chairman of the DSC may call a special meeting of the DSC at any time. The Chairman of the DSC shall call a special meeting upon the written request of at least four (4) DSC members or a majority of the DSC members then in office.

#### SECTION 3.03 EXECUTIVE SESSION

The Development Standards Committee is bound by The Open Meetings Act. The open meetings act provides certain narrowly drawn exceptions to the requirement that meetings of a governmental body be open to the public. These exceptions are found in sections 551.071 through 551.088 of The Public Information Act.

An executive session is a closed to the public. Executive Sessions may be called for consultation with an attorney, Deliberations about real property, among other provisions as defined in The Open Meeting Act. Discussions in Executive Sessions are confidential and shall not be discussed with any non-participants.

#### SECTION 3.04 NOTICE OF MEETINGS

Notice of any regular or special meeting shall be delivered to each DSC member at least three (3) days in advance of the meeting, except that no notice shall be required for meetings held at the date, time and location specified in a resolution of the DSC. Any member can waive notice of a meeting by a written consent signed before or after the meeting.

#### SECTION 3.05 VOTING

- A. <u>Quorum Requirement</u>. The presence of a majority of the DSC members then in office, including at least one (1) member of the Township Appointees, shall be necessary to constitute a quorum for the transaction of business and to take any action.
- B. <u>Deference Considerations</u>. In accordance with the Mutual Benefits Agreement, the DSC may invoke deference on any item the DSC is acting on. Deference is a term used when a certain parcel of land is governed by either the four (4) member Township Appointees or the three (3) member Developer Recommended Appointees instead of by a simple majority vote of the seven members. As a result, the vote could be based on the majority of the Township Appointees or the Developer Recommended Appointees as opposed to the majority vote of DSC as a whole. The areas are specified by geographic location as noted in the Mutual Benefits Agreement as amended.
- C. <u>Committee Action</u>. With respect to items submitted to the DSC, including appeals from decisions of an RDRC, the DSC will vote to take action generally in accordance with one of the following six (6) categories as presented by a motion duly made and properly seconded:
  - 1. APPROVED: Meaning that the application submitted has been approved, allowed and permitted.
  - 2. CONDITIONALLY APPROVED: Meaning that the application submitted has been approved, allowed and permitted with conditions which have been specified by the DSC.
  - 3. DISAPPROVED: Meaning that the application submitted has been denied, is not allowed and does not have a permit. For existing improvements requiring correction as a result of disapproval, the DSC will typically allow the owner of the property thirty (30) days to comply with the DSC's action, unless specified otherwise.
  - 4. MEMORANDUM OF AGREEMENT- (MOA): An MOA is issued when an existing violation is disapproved or conditionally approved, but the DSC consents to delay the enforcement of correcting the violation, based upon the execution of a document recorded in the real property records. This document identifies when the violation requires correction. The document is recorded and binding on the land. In order to release the MOA from the land, the owner must correct the violation in accordance with the MOA and coordinate with the Covenant Administration Department of The Woodlands Township ("CAD") to verify appropriate remedial measures have been take to correct

the violation and file a release of the MOA. An MOA may be used in the discretion of the DSC when, among other things:

- (i) The violation has been in place for an extended amount of time, and there is minimal impact or no immediate impact outside the property;
- (ii) Correction of the violation would cause undue hardship and there is minimal impact or no impact outside the property.
- (iii) When factors specific to the owner of the property at said time, requires extenuating circumstances that require the allowance of an improvement for the purposes of accessibility, ADA compliance or to mitigate undue hardship.
- 5. TABLE / DEFER: Meaning that the action item can be tabled or deferred at the discretion of the DSC, including but not limited to the following reasons:
  - (i) Resident and/or property owner wanted to, and planned to be at the meeting but was unable to attend;
  - (ii) The situation warrants a site visit to the property to better assess impact and extent of the violation;
  - (iii) The DSC desires that more research be performed and more information gathered on the issue;
  - (iv) The DSC desires to consult with legal counsel on the matter; or
  - (v) The DSC desires to consult with other entities or organizations.
- 6. NO ACTION: Meaning that the DSC has determined that no action is required either because the matter is not within the scope of the DSC's jurisdiction pursuant to The Woodlands Covenants, or the issue is immaterial in the context of The Woodlands Covenants and Standards. If the DSC determines no action is to be taken, they will no longer review the item as an application, nor will they view the item as a violation.

The DSC will send the applicant written notice of the committee's action. Where appropriate, construction of approved improvements may proceed immediately following receipt of written approval from the DSC.

## RECORDS AND MINUTES

The Development Standards Committee is bound by the Texas Public Information Act as located in chapter 552 of the Texas Government Code. All information collected, assembled, or maintained by the DSC is subject to the Texas Public Information Act, unless a valid exception applies.

The DSC will maintain both minutes and a record of votes for each of its meetings and shall make such records and minutes available for inspection by The Woodlands Township and

DSC members at the office of The Woodlands Township, and where an exception does not apply, to all citizens in accordance with the Texas Public Information Act.

## VARIANCES

The DSC will act on variances, which are requests for authorization to make an improvement or alteration to a property that is contrary to the Standards. A variance is a request for a deviation from the Standards that would or could have significant impact on the community at large or neighboring property owners. Some variances may have a greater impact than others and may result in a larger number of residents and/or affected neighbors in attendance at a meeting and the DSC will consider each variance application individually in light of the circumstances.

The DSC may grant variances to the Standards when it can be demonstrated that because of disability or other factors, strict compliance would create an undue hardship by depriving the owner of the reasonable utilization of the property, or where unusual circumstances or characteristics that affect the property make strict compliance impractical. Any variance granted will only be applicable to the specific property for which the variance was granted and under the conditions for which the variance was granted, and will not modify or change any Standards as they apply to other properties or conditions.

The Committee will consider many factors when reviewing variances, including but not limited to, precedent, impact, architectural compatibility, aesthetics and neighborhood character. No variance will be granted unless the general purpose and intent of The Woodlands Covenants and Standards is maintained.

### SECTION 5.01 VARIANCE PROCEDURES PRIOR TO MEETING

Prior to the meeting in which a variance will be considered for action by the DSC, the DSC, in conjunction with CAD, will do the following:

- 1. Collect necessary data relative to the variance request and notify the property owner(s) and adjacent property owners;
- 2. Create, review, and finalize an agenda and publish the same on the internet, at the office building where the DSC meets, and at the various courthouses;
- 3. Create a PowerPoint or other presentation based upon data collected and coordinated site visits;

#### SECTION 5.02 VARIANCE PROCESS DURING MEETINGS

The DSC will follow a standard operating procedure for hearing routine variance requests at a meeting, which will be presented with the agenda, any recommendations from CAD staff, and the necessary data, and the same will be systematically worked through the agenda in a reasonable amount of time and in the following order by variance type and other considerations:

1. Rehearing requests;

- 2. Proposed Improvements;
- Existing Improvements;
- 4. Numerical order based on residents present; then by
- 5. Numerical order based on items with no representation;
- 6. On occasions, exceptions can be made to hear an item out of order for extenuating circumstances or evidence of hardship.

Once a variance item has been presented, the DSC will review and deliberate regarding said item and take whatever action it deems appropriate in accordance with Section 3.05. As part of its review and deliberation, members of the DSC may ask clarifying questions of CAD staff, home owners and their representatives, affected neighbors or other interested parties. The DSC may work with CAD staff, the applicant and affected neighbors to develop alternative solutions. Additionally, the DSC may choose to consult with legal counsel, request special meetings, solicit public input and perform additional research prior to taking action. The DSC will provide any interested party an opportunity to speak for three (3) minutes each per individual.

## REHEARINGS

Request for a rehearing will be considered provided the owner/or an interested party submits new information to the committee that is substantial enough to cause the committee to rehear the item. Requests for a rehearing must be submitted in accordance with The Residential Development Standards.

The rehearing process begins with the submission of a rehearing form, which will generate the review of the item at a meeting. The committee will determine whether or not to grant a rehearing. If the rehearing is granted then the item will be scheduled for full review at a subsequent meeting.

## **AUTHORITY TO PROMULGATE RULES**

The DSC, during the course of the year, collects information through discussion with the RDRC's, CAD staff and other entities for the purpose of drafting and revising changes to the Standards. The Woodlands Covenants are the primary governing documents that run with title to the land. The Woodlands Covenants authorize the promulgation of more specific rules and regulations by the DSC, including but not limited to the Standards. The Woodlands Covenants and Standards provide additional details regarding improvements and maintenance to the home.

## POWERS AND DUTIES

#### SECTION 8.01 POWERS AND DUTIES DESCRIBED

The DSC recognizes that it has been granted certain powers and duties pursuant to The Woodlands Covenants, to including but not limited to the following:

1. Protecting and enforcing The Woodlands Covenants, Standards and property values;

- 2. Maintaining rules and regulations which are consistent with The Woodlands Covenants and the growing trends and needs of The Woodlands community and the environment;
- 3. Evaluating impact to neighbor(s) or enforcement of The Woodlands Covenants;
- 4. Finalizing dispositions of variance requests, commercial applications and residential construction as soon as is reasonably practical under the circumstances;
- 5. Modifying, amending and adding to The Woodlands Residential and Commercial Development Standards and Initial Land Use Designation where appropriate;
- 6. Finalizing actions for properties in violation of The Woodlands Covenants or other restrictions within its jurisdiction, taking necessary subsequent enforcement action (including legal action where necessary), and inspecting lots and improvements on lots to determine compliance;
- 7. Promulgating rules and regulations governing the improvements of lots;
- 8. Adopting building codes governing construction on properties;
- 9. Designating the charge and collection of fees for the examination of plans and specifications;
- 10. Providing Certificates of Compliance upon completion of a structure or improvement as requested;
- 11. Authorizing the imposition of liens on a property for the enforcement of The Woodlands Covenants.

#### **SECTION 8.02 GOVERNING DOCUMENTS**

In order to fulfill the duties and obligations outlined above, members of the DSC shall become familiar with the documents creating or impacting their ability to exercise the same, including but not limited to The Woodlands Covenants, the Standards, The Commercial Development Standards, Initial Land Use Designations, Neighborhood Criteria, Development Criteria, the Mutual Benefits Agreement (as amended), Delegation Agreement with The Development Review Committee, Roberts Rules of Order, the Texas Open Meetings Act, and the Texas Public Information Act.

#### SECTION 8.03 OPERATING PHILOSPHY

In their exercise of the powers and duties described herein, the members of the DSC shall strive safeguard the following operating philosophies whenever reasonably practical:

- 1. Finding a reasonable outcome for applicants and affected parties, without compromising the development philosophy or purpose and intent of The Woodlands Covenants;
- 2. Helping the applicants achieve their goals in as a fair a manner as possible;
- 3. Understanding the applicants requirements from a technical and personal perspective;
- 4. Developing alternatives or compromise that aid the applicants in achieving their objectives while maintaining the integrity of The Woodlands Covenants and Standards;

5. Providing an environment that is both neutral and respectful for all parties involved, and treating all applicants and attendees with respect and empathy.

## **AMENDMENTS**

These Operating Procedures may be amended by a majority vote of the all the members of the DSC then in office. The DSC shall meet at least annually, within ninety (90) days of the appointment of new DSC members to review and discuss these Operating Procedures as they may deem appropriate. The DSC will allow The Woodlands Township Board of Directors an opportunity to comment on any subsequent amendments hereto, however, these Operating Procedures do not require prior review or approval by The Woodlands Township Board of Directors.

## LIABILITIES

No member of the DSC shall be entitled to any compensation as a result of their service on the DSC and no member of the DSC shall be liable for damage, loss or injury arising out of any act or omission undertaken within the scope of their duties pursuant to The Woodlands Covenants, the Standards, or these Operating Procedures, including without limitation the approval or disapproval of plans, specifications, improvements, and variances.

The undersigned hereby certifies that the above Operating Procedures were duly adopted by the Development Standards Committee on the Soft day of October, and recognize that these Operating Procedures supersede any other documents related to the operating procedures of the DSC, including but not limited to any Bylaws purporting to govern the operations of the DSC.			
Deborah Sargeant, Chairperson	Robert Heineman, Vice-Chairperson		
Muan Weindel  Herman Weindel	Cut Mun-Chris Florack		
Danie van Loggerenberg	Lemeth Calourn Ken Anderson		

Kim Hess